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Department of Public Safety

Architectural Access Board

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Board Meeting Minutes – September 26, 2016

21st Floor – Conference Room 3

Present Board Members:

- Jeffrey Dougan, Massachusetts Office on Disability Designee (JD) – Acting Chair
- Andrew Bedar, Member (AB)
- George Delegas, Member (GD)
- Dawn Guarriello, Member (DG)
- Jane Hardin, Member (JH)

and

- Thomas Hopkins, Executive Director (TH)
- Kate Sutton, Program Coordinator/Clerk for Proceedings (KS)

Members Not Present:

- Raymond Glazier, Massachusetts Office on Elder Affairs Designee (RG)
- Walter White, Chair (WW)
- Diane McLeod, Vice Chair (DM)

- Meeting began at approximately 9:15 a.m.

1) Discussion: Board Member Roll Call
JD - all but DM, RG and WW present

2) Discussion: Parking at AV's Market II, 890 Waverly St., Framingham (C15-003)

- TH - first notice was sent in January of 2015
- EXHIBIT - e-mail from property owner, Sem Aykanian, received on 9/24/16, including picture of van accessible space with access aisles and signage
- hearing scheduled for 2 p.m. today

AB - *have them appear*

DG - *second – carries unanimously*

3) Incoming: St. Leonard's Church, 320 Hanover St., Boston (V16-273)

- TH - EXHIBIT – variance application and supplemental information
- seeking one variance for existing Hanover Street entrance
- spending over 30%, 3.3.2
- there is an existing exterior ramp to the main entrance to the church

JH - looks like it is the Prince St. entrance that is inaccessible

TH - will clarify

GD - *grant as proposed*

JH - *second – carries unanimously*

4) Incoming: J. Henry Higgins Middle School, 85 Perkins St., Peabody (V16-262)

- TH - EXHIBIT- variance application and supplemental information
- new construction of a middle school
- connecting elevator
- proposing card readers for use of elevators, for security purposes
- seeking a variance to use LULAs (28.12.1/3) and equip them with card reader locks
- cost savings to install LULA versus full elevator

- DG - worry about over use of LULA
- there will be three stories and janitors closets at each floor
- that elevator will be overused for deliveries and janitors going floor to floor everyday

- TH - building and site work done
- they went forward without asking for a variance

- DG - there are rules that the students are not allowed to use the elevators, and if are, then are accompanied by a staff member
- elevators can be locked out of service in an emergency

GD - *deny*

DG - *second – carries unanimously*

5) Incoming: Democratic Party Office, 931 Worcester Rd., Framingham (V16-275)

- TH - EXHIBIT- variance application and supplemental information
- initial access was provided by a wooden slab ramp
- now installed a temporary ramp and propose to use for 2 months, and now seeking variance for clear width and handrail design
- width is 36" and handrails are not continuous

- need to waive waiting period, came in on 9/23/16
- EXHIBIT – e-mail from Karen Dempsey of Framingham Commission on Disability 9/26/16; 9/26/16 e-mail of support from Framingham Building Department, Mark Dempsey

DG - waive 2 weeks

JH - second – carries unanimously

- JH
- when is the 2-month period start?
 - in place until after the election?

DG - grant as proposed, with time variance to expire on November 10, 2017

JH - second – carries unanimously

6) Incoming: Nevins Memorial Library, 305 Broadway, Methuen (V16-274)

- TH
- EXHIBIT – variance application and supplemental information
 - ADA order to be brought into compliance
 - seeking a variance to not provide a temporary ramp while a new accessible entrance is created
 - EXHIBIT – 8/29/16 letter from Elizabeth Lee, Chair of Methuen Commission on Disability
 - proposing to have a stair entrance maintained, with accommodations at other library locations and via online services
 - seeking 6 week variance to not provide temporary ramp

JH - grant as proposed

DG - second – carries unanimously

DG - with condition that construction notice on the website regarding lack of wheelchair access to that one location

GD - second – carries unanimously

7) Incoming: Moxy Hotel, 214 Tremont St., Boston (V16-272)

- TH
- EXHIBIT – variance application and supplemental information
 - new hotel with micro units
 - seeking variance to 44.6.2, to allow the use of transfer showers
 - 340 micro rooms, around 175 square feet
 - 340 rooms with 17 accessible rooms
 - 4 roll-in showers, but would like the remaining accessible bathrooms to have transfer showers
 - per 2010 ADA Standards, rooms without roll-in showers are required to be tubs or transfer showers, so want to make the remaining transfer showers
 - 521 CMR requires roll-in showers for all accessible Group 2B units

DG - grant as proposed

GD - second - carries unanimously

DG - motion to confirm that this is in the proposed regulations for transfer versus roll-in shower

AB - second – carries unanimously

Walter White, Executive Office of Public Safety Designee (WW) – Now Present as Chair

Deirdre Hosler, Deputy General Counsel for DPS (DH) – Now present

8) Discussion: Casco Crossing, 168 River Road, Andover (C14- and V14)

TH - EXHIBIT – correspondence from Vernon Woodworth, received on 9/20/16
- formerly Casco Crossing, is now called Abbott Landing

JD - should MOD recuse?

DH - did Myra Berloff (former Director of MOD) recuse herself in the past

TH - yes

DH - shouldn't have to recuse for involvement, but if she had in the past, then should be consistent

JD - okay, then will recuse

JD left the room

TH - most recent submittal is a status report and request for further consideration for variance relief
- entrances to Buildings 2, 3 and 4 is completed
- Community Building is complete
- access to the pool provided
- dealt with fire extinguishers
- provided handrails as required
- page 2 of his letter, converted 2 of the units to Group 1
- at construction, required to have Group 1 units at all first floors of all building
- complainant was using a wheelchair inside Building 2
- has since passed away
- now asking the Board to reconsider the original motion to provide the Group 1 units over time, as they were vacated, as they were required to do at the time of construction in 2007
- in the packet is a letter from Matt Frasier, part of the ownership of the property
- when Frasier's company bought the property, they knew that the work to comply with the AAB was required

DH - motion for reconsideration, but is late and beyond timeframe
- can request additional variances, but not submitted in that format
- in terms of merits, there are no excessive and unreasonable costs to creating this access, and over a million set aside for the renovations
- argument that not enough people with disabilities requesting the units is not a solid argument

DG - *deny motion for reconsideration due to expired timeframe for said request to be submitted*

GD - *second*

TH - statements made by Woodworth about the Complainant being able to walk, are not relevant, access was required when the building was built

WW - *vote – motion carries*

DH - does the Board agree that the impracticability argument not hold water with the Board currently
- not technically infeasible
- argument of cost does not appear to be valid, based on the knowledge of the amount of funds available
- no proof of lack of benefit

DG - *draft letter to Petitioners regarding validity of impracticability argument and notice to not reconsider*

GD - *second – carries unanimously*

9) Discussion: Paul Moriarty – Electric Car Charging Stations and Access Requirements

- TH - advisory review on June 6, 2016 regarding what the requirements would be for accessibility at Electric Car Charging Stations
- did review ADA and Federal Access Board regarding their use
- DH - there is a fair amount of confusion regarding what the issue is and where the AAB stands
- EXHIBIT – letter from Paul Moriarty on September 6, 2016
- rather challenging tone, regarding the Board's previous opinion
- want to make it clear, that advisory opinion of this Board is not optional enforcement
- June 17, 2016 submittal regarding the number of electrical car charging stations that would be parking spaces
- in that way, the Board treated it as a parking issues; however ADA considers electrical charging station is beyond the scope, but that if provided 5% but not less than 1
- AAB did issue opinion regarding number of spaces provided and the clearances and reach ranges
- the letter from the Board stated the number of electrical charging spaces shall be above and beyond the requirements
- JD - clarify that the electrical charging spaces shall be considered a separate number of spaces, 521 CMR 23.2.3
- cost and convenience being offered, so accessible features would be required at those extra features
- still require the number of accessible parking spaces per 23.2.1
- TH - was the Board's intention that the electrical charging spaces were a separate number taken into consideration
- 5% would only be require if 20 or more
- 15 spaces or less, not a full accessible space required
- could be for people that use a wheelchair to transfer into
- right now there are no vans that are electrically charged
- WW - plenty of people that have placards that can drive electric cars
- if the electrical spaces are provided as accessible, then anyone with a placard could use it
- DH - Chapter 30A, section 3 (need to verify section)
- advisories opinions can be broader
- is the charging station parking or not parking
- JH - any statistics regarding use of charging stations
DH - personally do not
- curious of current usage, since it will be increasing as well
- DH - Board has already made a decision, can just clarify
- if EV Charging spaces are provided, need to clarify what it is, a control, a parking space, etc.
- TH - if part of regulations, 5% but not less than one for the number of EV Charging spaces provided
- DH - if the controls and clearances and reach ranges are provided then is not it accessible
- WW - if not signed as an accessible space, but have all of the access around the space and to the charging station
- charging space could be taken up for hours or days
- need to provide access to the charging stations

- is the charging station intended to be used as overnight parking
- JD - what is the enforcement?
- WW - if the intent is to charge the vehicle and then move the car
 - will someone be policing the use of the spaces
- DH - is it a parking space or not?
 - if EV spaces are in fact parking spaces
 - if they are truly parking spaces, section 23.2 applies
 - will it be 5% of the station, but not less than one
 - but also need to provide standard and van accessible parking spaces
- WW - Also, issue of more EV's in the future
- DH - they really should not function as parking spaces since just like a fill-up station
- GD - charging can take up to a day for current vehicles
- DH - it would be a problem if an accessible signage was provided and a non-EV took the space
 - supposed to be a fill-up station
- DG - what stage is the BBRS at?
 - DH - they are dealing more with the electrical side of it
 - if it is going to become a regulation, at what point does the AAB get involved in it
- DH - regulation would really be whether accessible EV spaces would be required
- GD - should be additional, and not considered as part of the requirement under 521 CMR 23.2
 - should be a separate requirement for 5% but not less than one for the number of charging station parking spaces provided
- WW - should be considered a filling station, if that is the case, and it is considered a control like gas stations, then all should be accessible
- JD - is it a bank of charging stations, than should be a percentage of those provided
 - if "accessible" then access to the controls
- DH - comes down to space, and contractors want to utilize as much space as possible
 - opinions are binding to the construction and those that enforce it
 - disagree with Moriarty's statement regarding enforcement
 - Board gets to say how the rules apply to situations that AAB jurisdiction covers, just need to clarify how and why
 - parking or a control
- GD - it is an amenities issue
- WW - do they intend it to be a parking space or as an amenity?
- DG - if look at public telephones sections, at a bank of public telephones, one had to be accessible

DH - would like to draft a letter to clarify the Board's decision and clarify if amenity or parking

JD - have DH draft a letter regarding EV parking spaces 521 applicability in regards to the use as a parking space versus the use as an amenity, such as a bank of phones, ATM's, to be reviewed at the next meeting of the Board; also refer to California's proposals for language regarding EV charging stations

DG - second – carries unanimously

Brief Break

10) Advisory Opinion: Locker Rooms, 521 CMR 19.4; Boston College New Recreation Center

TH - EXHIBIT – Submittal from Jeremy Mason, Howe Engineers, Inc., dated September 20, 2016

- proposed new construction
- 3rd submittal review for proposed locker orientation
- trying to not create dead-ends by removing features to create accessible routes throughout
- created 7 areas of turn-around ability
- there is also an oversized locker room

GD - bench in front of the locker makes reaching hard

TH - accessible lockers do not have benches in front of them

JD - accept the most recent plan as accessible, on the condition that the U-turn locations have the length of the bench at the U-turn be 48" or greater to allow for a 36" accessible route at the turn, per the requirements of 521 CMR 20.4

DG - second – carries unanimously

11) Incoming: Bright Horizons, 200 Berkeley St., Boston (V16-270)

TH - EXHIBIT – variance application and supplemental information

- renovation of first floor and lower level
- spending not clarified under partial application
- replacing existing tenant elevator which will be installed in January 2017
- tenant wants to use the space while the elevator is being updated and rely on the main elevators for the building

JD - grant as proposed

DG - second – carries unanimously

TH - second variance for sink heights at less than 25"

- used for preschool students

JD - grant as proposed

DG - second – carries unanimously

12) Incoming: Mixed Use Building, 595 Tremont St., Boston (V16-267)

TH - EXHIBIT – variance application and supplemental information

- small renovation of garden level for retail florist
- spending over 30%, 3.3.2

- apartments above are exempt since existing building
- no requirements for Group 2A units, since less than 20 units
- no requirements for public and common space since less than 12
- seeking variance for the lack of accessible entrances at the front and back of the building

JD - commission or ILC weigh-in at all?
 TH - no, and served on 9/1/16

TH - only 600 square feet per floor

JD - *grant on the condition, that buzzer and intercom system for the business at the sidewalk, and language on the website to be submitted and reviewed by the Board, within 30 days of receipt*
 GD - *second – carries unanimously*

13) Advisory Opinion: Wynn Casino, 1 Horizon Way, Everett

TH - EXHIBIT – letter from Brown Rudnick (Gregory Sampson), request for Advisory Opinion regarding toilet rooms in Group 2B suites, and requirements for vertical access; received on 9/8/16
 - previous request submitted by Deborah Ryan regarding vertical access and bathrooms in two-level hotel suites
 - Board voted that required Group 2B units shall provide vertical access and accessible bathrooms at both floors for two-story suites
 - also submitted a variance application to be reviewed if advisory requires compliance
 - spending over \$1 billion
 - EXHIBIT – variance application submitted September 8, 2016
 - but have not processed the application yet, i.e. given it a docket number or processed the check

JH - in the suites, all bathrooms shall be accessible?
 GD - on each floor

JD - how many are provided as two-story suites?
 - only one accessible two-story unit

TH - request effects six accessible rooms that have multiple bathrooms, they want to put one in each room, as opposed to make both floors

JD - *uphold previous advisory opinion, that all accessible units shall have accessible bathrooms; withdraw and would like it in the packet to digest further and make an informed decision*

TH - they are challenging the original advisory opinion, but in the alternative want a variance

DG - another scenario is one level suite with multiple bathrooms, they are asking for one to comply as opposed to both

JD - *continue and place the documents in the packet for the next meeting*
 JH - *second – carries unanimously*

14) Hearing: 274 Franklin Street, Worcester (V14-314)

KS - clarify variance hearing and not a fine hearing; have to have a variance hearing before can hold a fine hearing

WW - called to order at 11:20, scheduled for 11:00 a.m.
- introduce the Board

Larry Escobar, Building Manager (LE)

WW - LE sworn in
- EXHIBIT 1 - AAB1-25

LE - Mr. Quan, the building owner, acquired the building in 2014
- not aware of the lack of occupancy permits to the second floor; was being used as offices, and the occupancy permit was revoked prior to the change in ownership
- rents were being raised and one tenant complained about the lack of an elevator within the building
- three tenant spaces on the second floor, one was an engineer for the project
- all had 30 day leases, so when fine notices from the building department were sent to the owner, they evicted all second floor tenants
- the previous owner did a significant amount of renovations to the building to trigger the requirement for an elevator within the building
- previous owner blocked in the elevator, and removed four beams
- evicted all second floor tenants, and have no one on the second floor

WW - anyone at the second floor now?
LE - no one, just used as storage for engineer now

LE - AAB 11, shows the entrance doors, above that, the floor was removed and chandelier installed
- proposing a cubicle on the first floor, as an alternative to creating access to the second floor

KS - refer to AAB6, December of 2014 denied the variance and required report of study regarding installation of vertical wheelchair lift or LULA be submitted to the Board by January 2015
- checked on status of permits for an installation of a lift or LULA in the chance that the vertical access was installed without the Board's knowledge, and determined no permits had been pulled
- initially scheduled as fine hearing due to the lack of compliance with an order of the Board, but per process has to be a variance hearing first and then if noncompliance occurs again, then can schedule a fine hearing

WW - issue is the lack of specific information regarding proving that vertical access can or cannot be provided

LE - proposing to not use the second floor at all, just used as storage

DG - cubicle proposed for lack of access at the second floor
LE - just did that as a recommendation from the architect
- but if no one at the second floor, then don't need an alternate accessible first floor location

LE - Mr. Quan is proposing to construct a 600-unit condominium building on this site, so the plan is to eventually demolish the building in question

DG - need to know where the accessible entrance to the building is located
LE - all the same level at the first floor; stairs are to their storage level
- stairs within the salon?
LE - have to go outside the space to get to the upper level of the salon

- GD - need accurate plans of what is there
- JD - and pictures of the current use and accessible entrances
- WW - abandoning the use of the second floor, need a notarized affidavit that states that the second floor is not going to be used for anything other than storage
- but need information regarding the lack of access from the salon
- JD - take under advisement (continue) to have the Board Staff investigate this matter further in regards to the existing plans, jurisdictional triggers via conferring with the Building Department, and a potential tour of the building*
- DG - second – carries unanimously*
- DG - want a signed and notarized affidavit regarding the fact that the use of the second floor will be for storage only/no occupancy, and be submitted by October 12, 2016*
- JD - second – carries unanimously*
- JD - expedite the decision of the Board*
- DG - second – carries unanimously*

15) Incoming Discussion: Grace Church, 101 Wales Ave., Avon (V16-224)

- TH - originally reviewed on August 8, 2016 and asked for photos and more information regarding the second floor
- EXHIBIT – 9/14/16 letter from Sean Sears, Pastor; also submittal of plans from project architect
- no plans for potential vertical access or photos
- JD - continue until such time that the Board receives what is required*
- JH - second – carries unanimously*

16) Discussion: Wellesley College Field House, 106 Central St., Wellesley (V14-140)

- TH - EXHIBIT – submittal from Paul McAndrews of Wellesley College, dated August 31, 2016
- seeking time extension
- JD - accept the status report with the following conditions: 1) women's shower deadline is extended to April 1, 2017; and 2) related to Item #1 for Pendleton Hall, submit pictures of new vending machines to be received within 30 days receipt of decision*
- JH - second – carries unanimously*

BREAK FOR LUNCH

17) Hearing: St. John's Parish House, 27 Devens Street, Charlestown (V16-139)

- WW - called to order at 1:00 p.m.
- introduce the Board

Stephen Spinetto, St. John's Church (SS)

- WW - SS sworn in
- EXHIBIT – AAB1-24
- SS - small Episcopal Church with 70 people during a regular Sunday mass
- 175 year old building
- do not use the second floor currently on a regular basis, only use for overflow
- no members of the current church membership are wheelchair users
- most members walk to church
- submittal of pictures of the church
- WW - accept four pages of photos and one page of text as EXHIBIT 2
- SS - one parishioner had a lift in their house that was used in a house
- went to install the chair lift, but the wheelchair company refused to install in a public setting
- have made the entire first floor of the Parish House accessible, at my own expense
- space between church and parish hall can house a small elevator, but would have to move the priests dressing area and build a shaft for more than \$200,000
- at the last parish meeting, voted to start capital funding, and hired a capital campaign manager to raise funds to install an elevator, windows, and slate roof, which will be up to a million dollar project
- any money raised by the church, 10% of the money goes to community organizations, part of the churches charter
- give to the food pantry, schools, etc. decide each year who to give to
- would like to use the chair lift in the interim of installing an elevator over the next couple of years
- GD - what is the square footage of the second floor?
SS - 3,000 square feet, the apartment is approximately 200 square feet
- apartment is a rental
- there is a stage at the second floor
- only time used extensively was when the first floor was repainted, the second floor was used as an alternative mass space
- sometimes let the Sunday school children up on the second floor
- GD - accessible ramp currently
SS - yes to the parish house, and to the church through the parish house
- the kitchen and toilet rooms at the first floor are also accessible
- AB - looking for a 2-year time variance?
- what is the reality of raising those funds?
SS - unsure, but hired a campaign manager, committed to raising the money
- choir does practice on the second floor
- DG - \$200,000 for an elevator or a LULA?
SS - for a LULA, main cost is for the construction of the shaft and moving certain aspects of the existing church
- there is a stream that runs under the building, which is causing a water problem for the flooring, which needs to be rectified as well
- TH - would the pit requirements for an elevator be slowed because of that water issue?
SS - no, should not effect it
- TH - AAB24 is an e-mail from Hang Lee with a timeline for construction

SS - timeframe will probably be a minimum of 2 years from this point

DG - have capital projects been ranked?

SS - not yet, but water issue and elevator will be ranked very high
- some structural things are critical

DG - aware of the issues that the board has with a stair lift, but also worried about the egress issues
- by code, and based on square footage and occupancy, may be required to provide a second means of egress

SS - may be posted as a lower occupancy due to the current size of the stairs

AB - is the building sprinklered?

SS - no it is not currently, especially due to the height of the ceilings

DG - willing to allow time variance, but without the installation of the chair lift

SS - but not required to provide access since the work is not currently being performed
- the chair lift will serve five ambulatory women that have major difficulty with traversing the stairs
- would like to have the space available for use, but will not use the space if a person with a wheelchair can not

JD - take the matter under advisement

AB - second – carries unanimously

18) Incoming: Whole Foods Market, 575 Worcester Rd., Framingham (V16-263)

TH - EXHIBIT – variance application and supplemental information; 9/26/16 e-mail from Karen Dempsey of the Commission on Disability in support of the request, on the condition that button for service is provided

- renovation of the building
- seeking variance for 7.2.2, for transaction counters
- variance based on accommodation

JD - deny the variance based on the fact that it has not been proven that full compliance would be an excessive cost without substantial benefit to persons with disabilities or technologically infeasible

DG - second – carries unanimously

19) Incoming: Residence at Lakeway Commons, 35 Harrington Avenue, Shrewsbury (V16-261)

TH - EXHIBIT – variance application and supplemental information

- new construction of apartments
- variance for kitchen sinks, will provide accessible depth upon request and at no cost

JD - grant with the usual conditions

DG - second- carries unanimously

20) Incoming: Topsfield Town Hall, 8 West Common Street, Topsfield (V16-249)

TH - EXHIBIT – variance application and supplemental information

- at last meeting, voted to include in the packet to be reviewed at today's meeting

JD - Item #1 (14.4.1 and 28.1), grant as proposed

AB - second – carries unanimously

JD - Item #2 (14.6), deny

DG - second – carries unanimously

JD - Item #3 (20.2), grant on the condition that a third accessible parking space be created near the accessible route to the accessible entrance

AB - second – carries unanimously

JD - Item #4 and 5 (25.1 and 27.3), grant as proposed

JH - second – carries unanimously

JD - Item #6 for Location #1, Location #2 and Location #3, as proposed with condition that wall side handrails are provided

DG - second – carries unanimously

21) Incoming: Gold Meir House, 160 Stanton Ave., Newton (V16-260)

- TH - EXHIBIT – variance application and supplemental information
- existing elderly housing with 199 units
- reconstruction project, spending \$31 million, value of building is \$10 million
- seeking 2 variances; 1 for the use of bottom freezer refrigerator

DG - grant as proposed

JD - second – carries unanimously

- TH - second variance is for the trash chute
- clearances are not provided at the chute, but have a pickup policy for maintenance staff for any trash left outside the trash rooms are collected on a daily basis

JD - grant on the condition that a written policy is submitted to the board within 30 days of receipt of decision

JH - second – carries unanimously

JD left the room

22) Incoming: Curb Cut at Kingston St. and Summer St., Boston (C13-010 & V16-264)

- TH - EXHIBIT – variance application and supplemental information and original complaint file
- complaint filed on 1/25/13, first notice sent on 1/21/14, second notice on 8/20/15 and stipulated order issued on 1/29/16; variance received on 9/2/16
- seeking time variance until 12/31/17 to correct the curb cut
- EXHIBIT – e-mail from Allen Monteko on 9/24/16, complainant in the matter

JD now present

- argument is that there are areaways under the sidewalk and they need to work with the property owners to work on the sidewalk in the area
- in January issued a stipulated order to fix the work by April 1, 2016, based on their submittal stating that the work would be done by April 1, 2016; just received the time variance on 9/2/16
- Complainant is requesting 3/15/17 for a deadline of the work to be done

DG - grant a time variance to 3/15/17, with verification of compliance submitted to the Board on or before said date

JH - second – carries with JD abstaining

23) Hearing: AV's Market II, 890 Waverly St., Framingham (C15-003)

WW - called to order at 2:00 p.m.
- introduce the Board

Vinod Patel, President/Officer of AV's Market II (VP)

William Joyce, Compliance Officer for the Board (WJ)

WW - both sworn in
- EXHIBIT 1 – AAB1-28

WJ - complaint was originally filed in 2015
- First Notice was sent on 1/12/15
- January 22, 2015 e-mail response from VP to look into the matter and said that would complete work on 1/15/15
- stipulated order to that effect and sent on 1/23/15
- took over the case and spoke with attorney for VP
- issue is the parking space, it is a matter of work performed
- hearing scheduled
- spoke with VP last week and was notified that the space was corrected
- 9/24/16 e-mail from VP indicating work performed on the site, and the installation of a van accessible space

WW - accept e-mail as EXHIBIT 2

WJ - concerns about signage and built up ramp within access aisle
- e-mail received this morning from Mark Dempsey of Framingham Building Department, went to the site and measured space to be 8' wide with 8' access aisle, but sign is located below the required height

WW - accept e-mail as EXHIBIT 3

WJ - question about built up curb ramp that is within the access aisle, but unsure of when the ramp was built

VP - worked with Mark Dempsey in the past as compliance officer, but now worked with him as a member of the Framingham Building Department
- was asked by Dempsey to create the built-up curb ramp

WJ - happy to hear that he went above and beyond to create access as well as the compliant space
- the sign needs to be between 5 and 8 feet between the pavement and the top of the sign

JD - find in favor of complainant

DG - second – carries unanimously

JD - accept the resolution as compliant, on the condition that the signage is relocated to compliant height in accordance with 23.6.4

DG - second – carries unanimously

JD - grant the variance for the use of a built-up curb ramp, with the understanding that the Board will waive the two-week waiting and have variance submitted to the Board by October 12, 2016

JH - second

GD - need to install edge protection or flare the sides

JD - accept the amendment to allow install edge protection or flare the sides
- motion carries unanimously

JD - expedite

DG - second – carries unanimously

Brief Break

24) Hearing Discussion: St. John's Parish House, 27 Devens St., Charlestown (V16-139)

JD - reopen the case at hand

DG - second – carries unanimously

DG - deny the request to install an incline chair lift without a platform (28.12.5a) to the second floor, therefore upholding the previous decision of the Board, based on life safety egress concerns, and the substantial benefit provided by fully compliant access at a wheelchair, as well as the Board's longstanding opposition to the installation of incline chair lifts without a platform in a public use situation

AB - second – carries unanimously

25) Incoming: Bethany Baptist Church, 72 Ryan Street, Gardner (V16-265)

TH - EXHIBIT – variance application and supplemental information
- removing existing front entrance stairs and re-building the stairs
- there are two other accessible entrances to the building
- seeking a variance to not create a ramp at an estimated cost of \$42,000 to build a front entrance ramp

AB - grant as proposed

JD - second – carries unanimously

26) Incoming: Dance Department Offices and Administration – Smith College, 47 Belmont Street, Northampton (V16-252)

TH - EXHIBIT – variance application and supplemental information
- originally reviewed at the 9/12/16 and voted to put in packet
- seeking 6 different variance requests, as shown on AAB2
- first variance for 20.1, access to the upper levels
- also requested variance for 28.7, which is cab size, but unsure if they are proposing an elevator

JD - they are not, they are seeking a variance for no elevator

TH - spending over 30%

JD - Section 20.1, Section 26.5, 26.6.3, and Section 28.7 [28.1], deny based on lack of office space at the first floor for accommodations, no sufficient argument for variance

DG - second – carries unanimously

JD - Section 25.1, variance not needed, based on conversion to locked service entrance

GD - second – carries unanimously

JD - Section 27.1, Item #1 - Main Stair, deny based on the lack of impracticability, cost of compliance is less than 1% of renovation cost

DG - second – carries unanimously

JD - Section 27.1, Item #2 – Back Stair, grant as proposed

JH - second – carries unanimously

JD - Section 30.1, public toilet rooms, grant on the condition that compliant grab bars are installed - withdrawn

JD - section 30.1, grant on the condition that they remove the wide side grab bar, and install a fully compliant rear grab bar, and allow the use of the fold-down grab bar at the narrow side

AB - second – carries unanimously

JH left for the day

27) Hearing: Cinderella's Restaurant, 901 Main St., Cambridge (V15-298)

WW - called to order at 2:05 p.m.

- introduce the Board

Gregory Barison, Esq., Counsel for Cinderella's (GB)

Antonio Barros, Cinderella's Owner (AB)

Patrick Barrett, Building Owner (PB)

WW - AB and PB sworn in

- EXHIBIT 1 – AAB1-104

GB - settlement was reached through counsel, and require that the tenant comply with the landlord's construction plan and hotel project

PB - was not part of the tenant's original construction project for the restaurant

- had project proposed for hotel on the site

- have applied for preliminary permits for the construction of a hotel

- plan is to make the entire building compliant when converted to the hotel use

- construction plans will lower floors and will make the entire building accessible at the end of the construction project

- project is pending City of Cambridge's review of the project, will not have a permit in hand until November at the earliest

- TH - work done at the restaurant triggered accessible entrance and bathroom
 - some of the work done by the restaurant was reportedly done without permits
 - allowed the restaurant to stay open with the understanding that access would be provided to the restaurant
 - issue with subpoena for the owner to appear at the hearing, but subpoena not served due to address conflict
- PB - want to keep the current tenants, also have residents above that will be in the building until August 31, 2017, permit for work on the adjacent site start in November 2016
 - trying to have the work completed by November 2018
- TH - so business will stay open during construction
 - what about the installation of temporary ramp
- PB - there is a plan for temporary ramp at the rear
 - there are vehicles that go to the rear for delivery, as well as trash and recycling receptacles
 - AAB29, proposal is to convert the rear into a courtyard
 - the rear is going to be very hazardous during construction
 - there is no street frontage
 - a ramp would need to be built at the interior
- TH - what about a temporary ramp at the front entrance sidewalk
 PB - there does appear to be enough sidewalk clearance, but would need approval from the City of Cambridge
- PB - biggest concern is the amount of construction that is needed at the rear
 - rear entrance is higher than the front entrance
 - all of the first floor tenant spaces will be made accessible with the proposed project
- WW - accessible toilet room issue
- PB - all of the bathrooms will be renovated as part of the overall project
- GD - so no accessible toilet room until the hotel work is completed
- GB - Cinderella's is going to vacate February 1, 2018
 PB - when the restaurants vacate the space then I will take over the space and update the space
- GB - submit a copy of the lease and executed agreement
- TH - what about buzzer system for sidewalk service?
- DG - can also provide a temporary ramp
- PB - contractor for the Cinderella's job was not the best, and created a mess for the work, not completely the restaurant owners fault since unaware
 - stopped their work on a Saturday, after they had gutting the tenant space
 - doing a historical reservation on the exterior, but need to redo the entire interior of the building
- WW - executed agreement between Cinderella's and building owner, accept as EXHIBIT 2

- DG - *grant the variances requested (521 CMR 25.1 and 30.1) for the times agreed upon in Exhibit #2, for this use only, with the condition that a temporary sidewalk ramp, or lighted menu board with buzzer and intercom system, within 60 days receipt of the decision, to be verified on or before that date*
- JD - *second – carries unanimously*

28) Discussion: Bright Stars Preschool, 240 Washington St., North Easton (V13-179)

- TH - EXHIBIT - 9/12/16 letter from Melissa DePasquale, owner
- letter states that daycare will be closed on 9/30/16
 - owner was required to be accessible based on spending under 3.3.3

DG - *case is closed relative to the daycare, but under 521 CMR 3.3.3, the owner is required to provide access prior to the occupancy of the next tenant*

JD - *second – carries unanimously*

JD - *expedite*

AB - *second – carries unanimously*

29) Incoming Discussion: 225-227 Newbury St., Boston (V16-256)

- TH - first review on 9/12/16
- EXHIBIT – 9/15/16 submittal of lease language by Joe Hanley
 - lease was executed on February 2016
 - building sold after the lease was signed

JD - *grant on the condition that any changes to the lease (no matter how minor) will require the installation of a compliant vertical wheelchair lift at that time*

DG - *second – carries unanimously*

JD - *want documentation of the accessibility at the rear of the building as proposed for the restaurant, and within the restaurant, and signage at the front of the building, to be submitted within 30 days of completion of said project*

DG- *second – carries unanimously*

30) Incoming: Walgreens, Corner of Main St., and Center St., Malden (V16-251)

- TH - EXHIBIT – variance application and supplemental information
- driveway out to Middlesex Avenue being reconstructed
 - variance for cross slope at driveway is 3.9 and 2.2%; at tree grate it is 2.4% and 3.4%

JD - *grant as proposed*

DG - *second – carries unanimously*

31) Incoming: Roudenbush Community Center, 65 Main St., Westford (V16-271)

- TH - EXHIBIT – variance application and supplemental information
- spending over 30%
 - would like to put in packet

JD - *include in packet for 10/17/16*

DG - second – carries unanimously

32) Incoming: Mixed Use Building, 40 Berkeley St., Boston (V16-266)

- TH - EXHIBIT – variance application and supplemental information; amendment submittal from Doug Anderson on 9/22/16
- gut rehabilitation of the building, split into 2 phases
 - asking for 15 variances for Phase 1, seeking to defer to Phase 2, which will be completed in April of 2018
 - Phase 1 will be completed by April 2017

DG - include in packets for 10/17/16

JD - second – carries unanimously

- TH - is it okay for the project to go forward, and asked by the Petitioner to contact the building department to allow demolition permits and at-risk hearing

DG - allow at-risk permits at this time

GD - second – carries unanimously

33) Incoming Discussion: Athenaeum, 6 Elm St., Westfield (V13-068)

- TH - originally granted use of temporary ramp and granted variance for slope, handrails and width
- another project is being done on the library, and want to move the temporary ramp to the library ramp
 - allowed temporary ramp use because it needed to be in place by 9/16/16

JD - grant the use of the temporary ramp, on the condition that it does not exceed 9.5% and all other conditions of the previous variance

DG - second – carries unanimously

34) Incoming: PCEA NEEMA Church, 201 Coburn St., Lowell (V16-268)

- TH - EXHIBIT - variance application and supplemental information
- renovation of church and change of use, spending over 30%, 3.3.2
 - a number of variances requested, would like to put in packets

JD - include in packet for 10/17/16

DG - second – carries unanimously

35) Incoming: UMass South College, 150 Hicks Way, Amherst (V16-269)

- TH - EXHIBIT – variance application and supplemental information
- proposing to have ADA compliant signage
 - renovation of existing building, spending over 30%

JD - grant as proposed

AB - second – carries unanimously

36) Incoming Discussion: Carmelina's Restaurant, 120 Salem Street, 124-126 Salem Street, Boston (V16-240)

- TH - EXHIBIT – 9/23/16 submittal from Norton Remmer, which included drawings of the building

- previously voted, on 8/22/16, to deny the request for 20.1, 17.5 and 25.1 as proposed
- stairs between the two spaces, but proposing access to the new entrance

JD - grant the variance for the lack of accessible entrance at 120 Salem Street, and deny variance to 20.1 and 17.5, and require the install of an interior ramp and grant a variance for the ramp landing, as shown on plan A2, dated 9/23/16

DG - second – carries unanimously

37) Incoming: Dowling Building, 6 Pleasant St., Malden (V16-245)

- TH - 9/12/16 made a motion to require TH meet with Petitioners
- met with petitioners on 9/14/16
 - EXHIBITS – variance application and supplemental information; 9/19/16 e-mail Joseph Cyrulik
 - need variance for 26.6.1 for the slopes at the entrance door landings (up to 5.6% running slopes)

JD - grant as proposed, on the condition that signage at the two inaccessible entrances to the accessible entrances is provided

DG - second – carries unanimously

38) Discussion: Stationery Factory Building, 63 Flansburg Ave., Dalton (V15-301)

- TH - EXHIBIT – 9/21/16 submittal from Steve Sears regarding status report
- February 2016 decision from hearing, required status reports
 - applicant requested extension from March 1, 2019 to January 1, 2020

DG - grant extension to 1/1/20, on the condition that status reports are continued to be submitted in a timely manner

AB - second – carries unanimously

39) Discussion: Beauty Salon, 128 Mayor J. McGrath Hwy, Quincy (V16-156)

- TH - EXHIBIT – submittal from Ed Porzio, dated August 29, 2016
- now proposing no use for the second floor
 - also proposing a vertical wheelchair lift for an accessible entrance at the rear

AB - grant the use of a vertical wheelchair lift at the rear entrance, that complies in full with 521 CMR 28.12.2, with directional signage at the front inaccessible entrance, and a notarized affidavit submitted to the board stating the second floor is not open to the public, with the affidavit submitted by October 12, 2016, and the lift installed and inspected by January 6, 2017; status report including shop drawings and deposit by November 1, 2016.

DG - second – carries unanimously

DG - expedite

AB - second – carries unanimously

40) Discussion: Town Hall, 59 Main St., Hatfield (V13-136)

- TH - EXHIBIT – status report received 8/31/16, submitted by Marlene Michonski, Town Administrator
- 2013 work triggered full compliance
 - Board granted time variances, but last status report notes that the Town has voted to not spend the required money

JD - schedule a hearing
AB - second – carries unanimously

41) Discussion: Boston Courtyard Marriot, 275 Tremont St., Boston (V15-206)

TH - EXHIBIT – submittal from Peter Vanko on 9/14/16
- previously granted variance for slope with furniture zone steeper slopes
- now proposing a new design with cross slopes in C-1.1 and C-2.1
- cross slopes of up to 5%
- previous granted was 8-foot wide compliant path, with furniture zone of noncompliant cross slopes
- had to change because of need to meet existing sidewalk slopes and an existing manhole

AB - continue to discuss the matter with the engineer and architect of record regarding change of plans

JD - second – carries unanimously

42) Incoming Discussion: Bikeworx, 71 Apsley St., Hudson (V16-259)

TH - presented on 9/12/16
- previously proposed accessible route through the shop
- now proposing a ramp at the main entrance, need a variance for the width of the ramp 3' 3 ½"

AB - grant as proposed

JD - second – carries unanimously

43) Discussion: Minutes and Decisions from 9/12/16 and two alternate later dates (name decisions)

JD - accept the minutes from 9/12/16 and decisions e-mailed

DG - second – carries unanimously

44) Advisory Opinion Discussion: Worcester RTA Vehicle Maintenance Operations Facility, 42 Quinsigamond Ave., Worcester; 521 CMR 24.5 – Doug Anderson, C3, 8/1/16 submittal

TH - presented to the Board on 8/8/16
- advised that they do not have to have continuous handrails through the ramp landing
- EXHIBIT – e-mail from D. Anderson asking the case to be represented
- Board required the internal handrail to be continuous

DG - outer railing does not need to be continuous at the landing, but is required to have the proper extension; the inner handrail is required to be continuous

JD - second – carries unanimously

45) Discussion: UMass Memorial Medical Center, South Parking Garage, Benedict Lot, Emergency Lot, 55 Lake Avenue North, Worcester (C15-089 and V14-353)

TH - EXHIBITS – e-mails from Scott Ricker on 9/20/16 and 9/21/16 and 9/26/16; Mike Kennedy 9/21/16 e-mail
- Ricker is arguing that the Board had issued an order that vans should not be parking in the accessible van parking spaces

- have received pictures from Ricker showing the vans still parking in the spaces in question and then motorcycles parking in the access aisles

DG - motion to send a letter reiterating the Board's order, and if evidence showing violations continues, a fine hearing will be scheduled

JD - second – carries unanimously

JD - expedite

GD - second – carries unanimously

46) Discussion: Affidavit for 30 West Mill St., Medfield

TH - EXHIBIT – submittal of affidavit on 8/24/16 from John Naff, Building Commissioner in Medfield
- seeking to build 2-story wood structure, with no portion of the building to be open to the public
- proposed business is an engineering consultant, architect, and structural engineer

DG - continue for more information

JD - second – carries unanimously

47) Discussion: Affidavit from Attorney Jason Rawlings, on behalf of his client, owner of PJ Sincotta, Inc., 525 Bedford St., Bridgewater, Suite 8

TH - EXHIBIT – submittal of affidavit originally on 9/13/16 and then resubmitted on 9/22/16
- Sincotta is used by the owner only, and second floor will not be open to the public
- first floor is accessible

JD - accept the affidavit and have it registered with registry of deeds

DG - second – carries unanimously

- End of Meeting -

Matters not reasonably anticipated 48 hours in advance of meeting

- Democratic Party Office, 931 Worcester Rd., Framingham (V16-275) - variance application and supplemental information
- Carmelina's Restaurant, 120 Salem Street, 124-126 Salem Street, Boston (V16-240) - 9/23/16 submittal from Norton Remmer, which included drawings of the building
- Stationery Factory Building, 63 Flansburg Ave., Dalton (V15-301) - 9/21/16 submittal from Steve Sears regarding status report
- Bikeworx, 71 Apsley St., Hudson (V16-259) – submittal proposing a ramp at the main entrance, need a variance for the width of the ramp 3' 3 1/2"
- Affidavit from Attorney Jason Rawlings, on behalf of his client, owner of PJ Sincotta, Inc., 525 Bedford St., Bridgewater, Suite 8 - submittal of affidavit originally on 9/13/16 and then resubmitted on 9/22/16

EXHIBITS:

- Parking at AV's Market II, 890 Waverly St., Framingham (C15-003) - e-mail from property owner, Sem Aykanian, received on 9/24/16, including picture of van accessible space with access aisles and signage
- Casco Crossing, 168 River Road, Andover (C14- and V14) - correspondence from Vernon Woodworth, received on 9/20/16

- Paul Moriarty – Electric Car Charging Stations and Access Requirements - letter from Paul Moriarty on September 6, 2016
- Locker Rooms, 521 CMR 19.4; Boston College New Recreation Center - Submittal from Jeremy Mason, Howe Engineers, Inc., dated September 20, 2016
- Grace Church, 101 Wales Ave., Avon (V16-224) - 9/14/16 letter from Sean Sears, Pastor; also submittal of plans from project architect
- Wellesley College Field House, 106 Central St., Wellesley (V14-140) - submittal from Paul McAndrews of Wellesley College, dated August 31, 2016
- Beauty Salon, 128 Mayor J. McGrath Hwy, Quincy (V16-156) – submittal from Ed Porzio, dated August 29, 2016
- Town Hall, 59 Main St., Hatfield (V13-136) – status report received 8/31/16, submitted by Marlene Michonski, Town Administrator
- Boston Courtyard Marriot, 275 Tremont St., Boston (V15-206) - submittal from Peter Vanko on 9/14/16
- Worcester RTA Vehicle Maintenance Operations Facility, 42 Quinsigamond Ave., Worcester; 521 CMR 24.5 – Doug Anderson, C3, 8/1/16 submittal - e-mail from D. Anderson asking the case to be represented
- UMass Memorial Medical Center, South Parking Garage, Benedict Lot, Emergency Lot, 55 Lake Avenue North, Worcester (C15-089 and V14-353) - e-mails from Scott Ricker on 9/20/16 and 9/21/16 and 9/26/16; Mike Kennedy 9/21/16 e-mail
- Affidavit for 30 West Mill St., Medfield - submittal of affidavit on 8/24/16 from John Naff, Building Commissioner in Medfield
- Bright Stars Preschool, 240 Washington St., North Easton (V13-179) - 9/12/16 letter from Melissa DePasquale, owner
- 225-227 Newbury St., Boston (V16-256) - 9/15/16 submittal of lease language by Joe Hanley
- St. Leonard's Church, 320 Hanover St., Boston (V16-273) - variance application and supplemental information
- J. Henry Higgins Middle School, 85 Perkins St., Peabody (V16-262) - variance application and supplemental information
- Nevins Memorial Library, 305 Broadway, Methuen (V16-274) - variance application and supplemental information; 8/29/16 letter from Elizabeth Lee, Chair of Methuen Commission on Disability
- Moxy Hotel, 214 Tremont St., Boston (V16-272) - variance application and supplemental information
- Bright Horizons, 200 Berkeley St., Boston (V16-270) - variance application and supplemental information
- Mixed Use Building, 595 Tremont St., Boston (V16-267) - variance application and supplemental information
- Wynn Casino, 1 Horizon Way, Everett - letter from Brown Rudnick (Gregory Sampson), request for Advisory Opinion regarding toilet rooms in Group 2B suites, and requirements for vertical access; received on 9/8/16; variance application submitted September 8, 2016
- Whole Foods Market, 575 Worcester Rd., Framingham (V16-263) - variance application and supplemental information; 9/26/16 e-mail from Karen Dempsey of the Commission on Disability in support of the request, on the condition that button for service is provided
- Residence at Lakeway Commons, 35 Harrington Avenue, Shrewsbury (V16-261) - variance application and supplemental information
- Topsfield Town Hall, 8 West Common Street, Topsfield (V16-249) - variance application and supplemental information
- Gold Meir House, 160 Stanton Ave., Newton (V16-260) - variance application and supplemental information

- Curb Cut at Kingston St. and Summer St., Boston (C13-010 & V16-264) - variance application and supplemental information and original complaint file; e-mail from Allen Monteko on 9/24/16, complainant in the matter
- Bethany Baptist Church, 72 Ryan Street, Gardner (V16-265) - variance application and supplemental information
- Dance Department Offices and Administration – Smith College, 47 Belmont Street, Northampton (V16-252) -variance application and supplemental information
- Walgreens, Corner of Main St., and Center St., Malden (V16-251) - variance application and supplemental information
- Roudenbush Community Center, 65 Main St., Westford (V16-271) - variance application and supplemental information
- Mixed Use Building, 40 Berkeley St., Boston (V16-266) - variance application and supplemental information; amendment submittal from Doug Anderson on 9/22/16
- PCEA NEEMA Church, 201 Coburn St., Lowell (V16-268) - variance application and supplemental information
- UMass South College, 150 Hicks Way, Amherst (V16-269) - variance application and supplemental information
- Dowling Building, 6 Pleasant St., Malden (V16-245) - variance application and supplemental information; 9/19/16 e-mail Joseph Cyrulik